

REMARKS/ARGUMENTS

In response to the Office Action dated June 24, 2010, Applicant amends his application and requests reconsideration. In this Amendment originally examined claims 1 and 2 are cancelled in favor of new claims 3-19. Accordingly, claims 3-19 are now pending.

In view of the substitution of new claims for the examined claims, the rejection of claim 2 as indefinite is moot. The Examiner's treatment of a phrase in claim 1 as a "product-by-process" limitation was incorrect and is impossible with respect to the language of the claims presented here. That former language described the rigid ring as being "sheathed via the lubricant layer with the rotor." While the translation of the original claim language might not be that made by a native English speaker, it is apparent from the specification of the present patent application that the language describes a structure in which a rotor is at least partially covering the rigid ring, with an intervening layer of lubricant. That language does not describe a process of manufacturing a product. That language describes the structure of a product in which a rotor at least partially encompasses the rigid ring, with an intervening lubricant layer. There is no process described in that phrase and the assertion to the contrary by the Examiner is inconsistent with the interpretation of claims directed to structures, but describing the processes by which the structures are made.

In the claims now presented, claim 3 and its dependent claims 4-12 are directed to an assembly that includes two fundamental elements, a condom and a ring. The ring, in turn, is a complex structure including three parts, a rigid ring, a rotor, and a lubricant. Claim 13 is directed to a ring that is employed in combination with a condom. Claim 13 likewise describes a ring having a complex structure including the three parts, a rigid ring, a rotor, and a lubricant layer. These claims are all supported by the patent application as filed. The independent claims, claims 3 and 13, are supported by Figures 1-4 of the patent application as filed and the passage of the

specification at page 4, lines 10-30. The same passage supports claims 4 and 5. Claims 6, 7, 14, and 15 are supported at page 5, lines 3-7. Likewise, the other dependent claims are supported throughout the brief specification of the patent application.

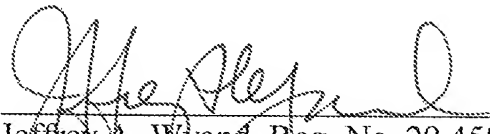
Examined claims 1 and 2 were rejected as unpatentable over Tsugawa (Published U.S. Patent Application 2994/0089309) in view of Griffiths (Published U.S. Patent Application 2002/0139373). This rejection is respectfully traversed as to the claims that are now presented.

In examining claims 1 and 2, the Examiner assumed that the sheath of the ring was supplied by the condom. That assumption permitted reliance upon Tsugawa as the principal reference. However, the reliance is incorrect with respect to the specification and with respect to the claims presented here. The ring structure is now described as having three distinct parts, each part being distinct from the condom. That kind of complex ring structure is neither described nor suggested in Tsugawa. Griffiths was not asserted to provide the ring structure. Therefore, claims 3-19 are patentable.

With respect to claims 3-12, the auxiliary device 82 of Tsugawa does not expand the tubular region of the condom as does the ring in the assembly of claims 3-12. Therefore, those claims additionally distinguish from any potential combination of Tsugawa and Griffiths.

Accordingly, the claims now presented are patentable over the prior art applied. Therefore, reconsideration and withdrawal of the rejection, as well as the allowance of claims 3-19, are earnestly solicited.

Respectfully submitted,



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